
OVERVIEW

A nursing care facility is a licensed nursing home, county medical care facility, or a long term care unit in a licensed hospital. Organized nursing care and medical treatment is provided to:

- Seven or more unrelated individuals who are suffering or recovering from illness, injury, or infirmity.
- These persons must be 15 years of age or older except in child caring homes and units.

Nursing care facilities may also be certified for the purpose of becoming eligible for payment from federal or state health programs. Licenses are usually valid for not more than one year after date of issuance.

Adult services workers may assist Medicaid (MA) recipients in locating available vacancies in appropriate nursing care facilities.

1978 P.A. 368, as amended, commonly known as the Public Health Code, Article 17, Facilities and Agencies, contains information in two parts specifically related to nursing care facilities. Part 201 is entitled General Provisions and Part 217 is entitled Nursing Homes.

In addition there are administrative rules that provide for license and certification. The rules contain detailed information necessary to implement the Act 368. Copies of the Public Health Code. The rules may be obtained from the Department of Licensing and Regulatory Affairs (LARA) Bureau of Community and Health Systems (BCHS).

**Complaints
regarding nursing
care facility
residents**

Review the Adult Protective Services policy ASM-210, 250 and 255 for a complete description of procedures for handling APS complaints with regards to nursing care facility residents. Copies of the APS referral regarding residents in a particular nursing care facility are to be sent to Department of Licensing and Regulatory Affairs (LARA) Bureau of Community and Health Systems (BCHS) at this address:

Michigan Department of Licensing and Regulatory Affairs

Bureau of Community and Health Systems-Health Facility
Complaints
P.O. Box 30664
Lansing, MI 48909
Fax: 517-241-0093
1-800-882-6006 Complaint Hotline number.
Email: BCHS-Complaints@michigan.gov

Nursing Care Facility Involuntary Transfers

Section 21773 of the Michigan Public Health Code and Rule 325.20116 discuss in detail the following conditions under which an individual may be involuntarily transferred out of a nursing care facility:

1. For medical reasons.
2. For the patient's welfare or that of other patients or facility employees.
3. For non-payment of a patient stay.

The decision to involuntarily transfer or discharge an individual requires that there be a written notice using ITD-502, Notice of Involuntary Transfer or Discharge form, of a minimum a 30 days prior to discharge except in the following instances:

- If an emergency transfer or discharge is mandated by the patient's health care needs and is in accord with a written order of medical justification by the attending physician.
- If transfer or discharge, mandated by the physical safety of other patients and facility employees, is documented in the clinical record.
- If transfer or discharge is subsequently agreed to by the patient or the patient's legal guardian. Notification must be given to next of kin and the person or the agency responsible for the patient's placement, maintenance and care in the facility.

Once the notice is given to the client or the client's legal representative, the nursing facility must inform the BCHS within 48 hours of serving the notice.

Section 21774 of the Public Health Code allows the patient the right to file a request of a hearing with the Michigan Department of

Health and Human Services (MDHHS), within 10 days following receipt of the written notice of the involuntary transfer.

The ITD-505, Appeal Form Regarding Involuntary Transfer or Discharge, must be provided to the resident by the nursing home, completed and mailed to:

Bureau of Community and Health Systems
Attn: LTC Involuntary Transfer/Discharge Notice
611 W Ottawa Street
Lansing, Michigan 48909
P. O. Box 30664
Bureau Main Phone: 517-241-2638
FAX: 517-241-2635
Division E-Mail: BCBS-help@michigan.gov

The Bureau of Community and Health Systems (BCBS), LTC Involuntary Transfer/Discharge team, reviews and approves involuntary transfers and discharges of residents from licensed nursing care facilities or a distinct part of a nursing facility.

For answers to your questions regarding the involuntary transfer/discharge process, contact the Michigan Long Term Care Ombudsman:

- By telephone: 866-485-9393.
- Mailing instructions are provided on each form.

Nursing Care Facility Closure

Sections 21785 and 21786 of the Michigan Public Health Code outline the responsibilities of a nursing home, and the MDHHS in those situations where a nursing care facility is closing.

- Section 21875 discusses the procedures to be followed when a facility voluntarily proposes to discontinue operation.

The facility is to notify the MDHHS, in addition to notifying all patients and their next of kin, as well as any patient representatives. These notices shall be given not less than 30 days before the facility proposes to close.

The facility and MDHHS are responsible for securing a suitable relocation of a patient who does not have a relative or legal representative to assist in his or her relocation. The facility and

MDHHS are to keep informed of the progress in relocating the individuals. The code specifically states that “the Department of Health and Human Services shall make available to the licensee (facility) assistance necessary to assure the effectiveness of efforts to secure a suitable relocation.”

- Section 21786 deals with those situations in which an emergency closing of a home has been ordered or where it is determined by the health department that a facility is “suddenly no longer able to provide adequate patient care.”

It is the responsibility of MDHHS to notify the local MDHHS office to make arrangements for the orderly and safe discharge and transfer of the patients to another facility.

The MDHHS will have representatives in the facility on a daily basis to:

- Monitor the discharge to other facilities or locations.
- Insure the rights of the patients are protected.
- Discuss the discharge and relocation with each patient and next of kin or legal guardian, person, or agency responsible for the patient’s placement, maintenance and care in the facility.

Local MDHHS office staff should assist in any way possible.

ASM-379H contains the Interagency Agreement for Nursing Facility Closures. Local office responsibilities are further defined in this document.

NH closure teams are made up of state and local MDHHS adult services staff that follow the NH Best Practice Protocol.

Nursing Care Facility Transition

To ensure clients are appropriately placed or relocated, Adult services workers should maintain open ACP or ILS cases for 90 days for MDHHS clients who have been admitted to nursing care facilities and then return to either their own home or an AFC/HA.

Transitional services should be provided following the initial placement and for all individuals relocated as a result of a nursing care facility closure.

Visit the client at least one time during the 90 day period to assure the client's needs are being met and to update case information.

Supervisors may approve maintenance of these cases beyond 90 days when the service plan supports a need for continued services.